



DEPARTMENT OF HEALTH & HUMAN SERVICES
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION
SOUTHWEST REGION

June 24, 1993

Office of the Regional
Food and Drug Director
7920 Elmbrook Drive, Suite 102
Dallas, TX 75247-4982
TELEPHONE: 214-655-8100

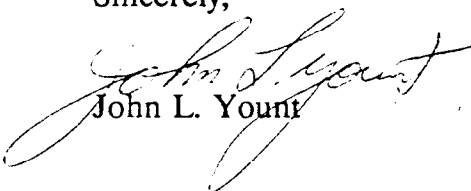
David R. Smith, MD
Commissioner of Health
Texas Department of Health
1100 W. 49th Street
Austin, TX 78756

Dear Dr. Smith:

Enclosed is a copy of the final signed version of the Memorandum of Understanding between our offices regarding the cooperation, coordination, and sharing of pesticide monitoring data concerning Residue in Raw and Processed Agricultural products (FDA 225-90-4001).

If you have any questions regarding any of the attached, please do not hesitate to contact me at (214) 655-8100 Ext 155.

Sincerely,


John L. Young

Attachment(s)

JLY/csa

cc: Rick Perry
LeRoy M. Gomez
Robert G. Merrifield

**FOOD AND DRUG ADMINISTRATION
COMPLIANCE POLICY GUIDES**

GUIDE 7157.35

CHAPTER 57 - MOUS - STATE

SUBJECT: MOU with the Texas Department of Health; Texas Department of Agriculture; and Texas Agricultural Experiment Station, Office of the Texas State Chemist Regarding the Cooperation, Coordination and Sharing of Pesticide Monitoring Data Concerning Residues in Raw and Processed Agricultural Products (FDA-225-90-4001)

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
TEXAS DEPARTMENT OF HEALTH
AND THE
TEXAS DEPARTMENT OF AGRICULTURE
AND
SOUTHWEST REGION
U.S. FOOD AND DRUG ADMINISTRATION
AND
TEXAS AGRICULTURAL EXPERIMENT STATION
OFFICE OF THE TEXAS STATE CHEMIST**

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to meet the legislative mandate to improve and increase the cooperation, coordination and sharing of pesticide monitoring data concerning residues in raw and processed agricultural products of mutual interest to the Texas Department of Agriculture (TDA) and the Texas Department of Health (TDH). It sets forth an agreement that commits each agency to share appropriate information which is essential to both parties in order that they may carry out their respective responsibilities. In recognition of the Legislature's expressed wish, the U.S. Food and Drug Administration's (FDA) Southwest Region and the Texas Agricultural Experiment Station, Office of the Texas State Chemist, College Station, Texas, have consented to join TDH and TDA as parties to this MOU.

II. Definitions

- A. "Raw agricultural commodity" means any agricultural food in its raw or natural state, including all fruits and vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.
- B. "Processed agricultural commodity" means any food that is not a raw agricultural commodity.
- C. "Tolerance" means the maximum allowable amount of a pesticide residue in food and feed as established by the Environmental Protection Agency or the Texas Board of Health, or the Feed and Fertilizer Control Service.
- D. "Food" means articles used for food or drink for man, chewing gum, and articles used for components of any such article.
- E. "Feed" means any material used as an ingredient or component of a mixture of materials used as feed for an animal, as provided by Chapter 141, Texas Agriculture Code, Section 141.002 et seq.
- F. "Adulterated food" means any food deemed to be in violation of Chapter 431, Sec. 431.081, Texas Health and Safety Code, the Texas Food, Drug, and Cosmetic Act.
- G. "Adulterated feed" means any feed deemed to be in violation of Chapter 141, Texas Agriculture Code, Texas Commercial Feed Control Act, Section 141.148 et. seq.
- H. "Pesticide chemical" means any substance which, alone, in chemical combination or in formulation with one or more other substances, is a "pesticide" within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C., Sec. 136 (u)) as now in force or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities.
- I. "Action level" means a level of pesticide residue for which regulatory action may be taken in the absence of a tolerance established by the Environmental Protection Agency, Texas Board of Health or Office of the Texas State Chemist.

III. Scope of Work

To facilitate the purpose of this MOU, it is agreed that the four agencies will:

- A. Exchange laboratory results of any Texas grown or processed food or feed products tested that exceed established Federal tolerances for pesticides, that exceed special FDA action levels, or that exceed special tolerances established by the Board of Health or the Office of the Texas State Chemist, and results of all samples collected as a part of any joint survey plan. Due to the perishable nature of most food products, these results shall be exchanged as soon as possible;
- B. Exchange any other laboratory results involving pesticides found in Texas grown or processed food or feed products when requested to do so by a party to this memorandum; however, TDA must first obtain written approval by USDA, Agriculture Marketing Services, before the information may be released to a party listed in this MOU.
- C. Jointly plan and execute surveys of Texas agricultural products with work divided to best utilize available resources;
- D. Develop and maintain close working relationships with each other in headquarters and in the field;
- E. Exchange procedures and techniques used in determining and administering compliance within the appropriate regulatory constraints of each Department or office;
- F. Provide for complete and timely exchange of information concerning current and proposed tolerances, action levels, methodology, monitoring, surveillance and enforcement programs, and legal actions; and
- G. Appoint individuals and alternates who shall be responsible for interagency cooperation and coordination.

IV. Authority for Adopting Interagency Agreements

- A. Department of Health and Department of Agriculture - The 69th Legislature amended the Texas Food, Drug and Cosmetic Act (now Chapter 431, Texas Health and Safety Code) by adding Section 431.248 to read as follows:

Section 431.248 (a) Texas Department of Health and the Department of Agriculture shall execute a memorandum of understanding that:

- 1. Requires each agency to disclose to the other agency any positive results of testing conducted by the agency for pesticides in food; and

2. Specifies how each agency will assist the other in performing its duties regarding pesticides in food.

The Texas Department of Health and the Department of Agriculture shall adopt the Memorandum of Understanding as a rule.

The Texas Department of Health and the Texas Department of Agriculture shall request the Federal Food and Drug Administration to join in execution of the Memorandum of Understanding.

- B. Food and Drug Administration - Authority stems from the Public Health Service Act, Title III, Part B, Section 311.
- C. Office of the Texas State Chemist - Authority stems from the Texas Commercial Feed Control Act, Chapter 141, Texas Agriculture Code, Section 141 et seq.

V. **Agency Responsibilities in Areas of Pesticides**

- A. Texas Department of Health - Chapter 431, Texas Health and Safety Code (Texas Food, Drug, and Cosmetic Act), Sections 431.081 (adulterated foods), and 431.161 (poisonous and deleterious substances), and Chapter 433, Texas Health and Safety Code (Texas Meat and Poultry Inspection Act).
- B. Texas Department of Agriculture - Texas Agriculture Code, Chapters 75 and 76.
- C. Food and Drug Administration - Federal Food, Drug and Cosmetic Act especially Sections 402 (Adulterated Food) and 408 (Pesticide Residues), the Federal Insecticide, Fungicide and Rodenticide Act, and the Federal Meat and Poultry Inspection Act.
- D. Office of the Texas State Chemist - Texas Commercial Feed Control Act, Chapter 141, Texas Agriculture Code, Section 141 et seq.

VI. **Publication of Data**

In order to provide each agency with notice of data concerning pesticides found in Texas grown raw or processed food products, each party shall notify the other parties to this Memorandum of Understanding of such data prior to widespread release of the data when such notice will not delay any effort to protect public health.

VII. The parties to the MOU agree to meet semi-annually (or more often, if needed) to review information and coordinate activities as appropriate.

VIII. Liaison Officers

The liaison officers (or alternate) for each party will be responsible for facilitating exchanges of information and expeditiously informing each other on matters requiring prompt attention. Each party agrees to provide notification of any changes in liaison officers (or alternates) appointments. Such notification shall constitute an amendment to and not require a revision of this agreement.

A. Texas Department of Health (TDH)
Dennis E. Baker, Acting Chief
Bureau of Consumer Health Protection
1100 W. 49th Street
Austin, Texas 78756
(512)458-7537

and

B. Texas Department of Agriculture
Steve Bearden, Assistant Commissioner
for Pesticide Programs
P.O. Box 12847
Austin, Texas 78711
(512)475-1626

and

W.E. "Sonny" McCasland
Lab Coordinator
Brenham Pesticide Lab
202 East Horton
Brenham, Texas 77833
(409)836-8853

C. U.S. Food and Drug Administration
Janine Jarvela, Supervisory Investigator
Dallas District Office
3032 Bryan Street
Dallas, Texas 75204
(214)655-5310

and

U.S. Food and Drug Administration
Humberto G. Guerrero, Supervisory Chemist
(Analysis and Results), Dallas District Office, FDA
3032 Bryan Street
Dallas, Texas 75204
(214)655-5324

- D. Office of the State Chemist
Dr. George Latimer, Jr., State Chemist
P.O. Box 3160
College Station, TX 77841
(409)845-1121
(409)268-2207 (after hours)

and

Roger Hoestenbach, Chief
Feed and Fertilizer Control Service
P.O. Box 3160
College Station, Texas 77841
(409)845-1121

and

Larry Whitlock, Supervisor
Feed and Fertilizer Product Compliance
Feed and Fertilizer Control Service
P.O. Box 3160
College Station, Texas 77841
(409)845-1121

IX. Period of the MOU

The terms of the MOU will become effective upon the last signature of the approving officials of the agencies entering this MOU. The terms of this MOU will remain in effect until (1) modified by mutual consent of participating parties, or (2) terminated by the Legislature. The Food and Drug Administration and/or the Office of the Texas State Chemist may withdraw through previous notification of other participating parties of thirty (30) days.

X. Approval/Acceptances

APPROVED AND ACCEPTED FOR THE
TEXAS DEPARTMENT OF HEALTH

BY: David R. Smith M.D.
David R. Smith, M.D.

TITLE:
Commissioner of Health

Date: 5/17/93

APPROVED AND ACCEPTED FOR THE
FOOD AND DRUG ADMINISTRATION, SOUTHWEST REGION

BY: LeRoy M. Gomez
LeRoy M. Gomez

TITLE:
Regional Food and Drug Director

Date: 4/26/93

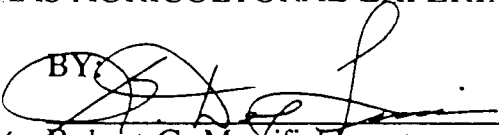
APPROVED AND ACCEPTED FOR THE
TEXAS DEPARTMENT OF AGRICULTURE

BY: Rick Perry
Rick Perry

TITLE:
Commissioner of Agriculture

Date: 4/12/93

APPROVED AND ACCEPTED FOR THE
TEXAS AGRICULTURAL EXPERIMENT STATION

BY: 
Robert G. Merrifield

TITLE:
Deputy Director

Date: 3 Jun 93